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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,402	02/08/2002	Klein A. Rodriques	2002.ALC	4789

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01/31/2003

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EXAMINER

ASINOVSKY, OLGA NMN

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 01/31/2003

3

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
10/072,402

Applicant(s)
Rodrigues et al

Examiner
Olga Asinovsky

Art Unit
1711



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Feb 8, 2002
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2 6) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arfaei U.S. Patent 4,960,465.

Claim 1 discloses a graft polymer comprising a backbone moiety and at least one moiety grafted onto the backbone moiety, wherein said backbone and grafted moieties comprise a hydrophobe and an amine or amide.

Arfaei discloses a graft copolymer comprising a backbone polymer and side chain polymers which are attached to said backbone polymer at various points, column 1, lines 48-51. A backbone polymer is a polyether such as a polyoxypropylene homopolymer or oxypropylene/oxyethylene copolymer, column 2, lines 45-46. The polyethers may include reactive groups such as an amino group, column 2, line 53. The backbone polymer based on polyoxypropylene homopolymer or oxypropylene/oxyethylene copolymer having amino functional

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groups is applicants' claimed hydrophobic backbone polymer. The side chain polymers which are grafted onto a polyether can be produced by polymerizing ethylenically unsaturated monomers, column 3, lines 45-51. A monomer such as diethylaminoethyl methacrylate, column 4, line 17 can be selected such as a hydrophobic monomer having an amino moiety in the molecule, for applicants' claimed grafted moiety comprising a hydrophobe and an amine as specified in the present example 1 at page 7. The graft copolymer functions as a plasticizer in the cement composition, abstract. The hydraulic cement is a substrate for the present claim 16, column 6, lines 60-68. It would have been obvious to one of ordinary skill in the art to use a graft copolymer in Arfaei wherein the backbone polymer and a side chain grafted polymer can be selected for being a hydrophobic polymer having an amine moiety for each formulation of a backbone polymer and a side chain polymer since in the reference variety of polyethers backbone and ethylenically unsaturated monomers work equally well within the same desired expectation.

Specification

3. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 17 has been renumbered 20.

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Also, claim 20 should be depended on claim 16.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art is relevant to show the state of the art knowledge.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olga Asinovsky whose telephone number is (703) 308-0041. The examiner can normally be reached on Monday to Friday from 9am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck, can be reached on (703) 308-2462. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7718 and (703) 872-9311 after final.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

O.A.

O.A.

January 23, 2003



James J. Seidleck
Supervisory Patent Examiner
Technology Center 1700